

§ 295.5

20 CFR Ch. II (4–1–02 Edition)

required documentation. If the documentation is not furnished within the time allowed, payment of the amounts withheld shall be made to the employee.

(4) Any payments made to the employee subsequent to the three-month notice period specified in paragraphs (d)(2) and (3) of this section, and prior to receipt of a response or required documentation from the spouse or former spouse, shall be considered properly paid to the employee and the board shall have no further liability to the spouse or former spouse with respect to such amounts.

§ 295.5 Limitations.

(a) *Employee benefit entitlement.* Payments will be made to a spouse or former spouse under this part only if the employee has been awarded an annuity under the Railroad Retirement Act. Payments to a spouse or former spouse shall be made only for months and from such amounts with respect to which an annuity is payable to the employee, and shall be suspended or terminated for any month in which the annuity of the employee is suspended or terminated. No arrearage accrues to the spouse or former spouse with respect to any month for which the annuity of the employee is suspended or reduced as required under the Act.

(b) *Minimum amount.* The amount of payment to a spouse or former spouse may not be less than one dollar per month.

(c) *Prospective payment.* Payment to a spouse or former spouse may accrue no earlier than the later of the date of delivery, pursuant to § 295.3 of this part, of a court decree or property settlement which will be honored under this part, or from October 1, 1983. The amount to be paid the spouse or former spouse under this part will not be increased to satisfy an arrearage due from the employee.

(d) *Payees.* Payment of an amount awarded to a spouse or former spouse by a court decree or property settlement will be made only to the spouse or former spouse except where the Board determines that another person shall be recognized to act in behalf of the spouse or former spouse as provided by part 266 of this chapter, relating to

incompetence. Payment will not be made to the heirs, legatees, creditors or assignees of a spouse or former spouse, except that where an amount is payable to a spouse or former spouse pursuant to this part, but is unpaid at the death of that spouse or former spouse, the unpaid amount may be paid in accordance with § 234.1 of this chapter, pertaining to employee annuities unpaid at death.

(e) *Net amount of benefits.* Notwithstanding the terms of the decree or property settlement, the amount of benefits payable to the employee which are subject to this part shall not include:

(1) Amounts deducted to satisfy a debt due the United States, including any amount withheld to recover erroneous payments under the Railroad Retirement Act, Railroad Unemployment Insurance Act, or any other acts administered by the Board; and

(2) Benefits which are waived pursuant to § 243.6 of this chapter.

(f) *Termination.* Payments to a spouse or former spouse terminate on the earlier of—

(1) The date on which the employee annuity terminates;

(2) The date required by the court decree or property settlement or the law of the jurisdiction in which the court decree or property settlement was entered; or

(3) The last day of the month before the month in which the spouse or former spouse dies.

(g) *Priority.* In the event that the Deputy General Counsel receives more than one decree or property settlement from competing parties, benefits shall be available to satisfy the decrees or property settlements on a first come, first served basis governed by the date of receipt by the Deputy General Counsel. Conflicting decrees or property settlements received on the same day shall be accorded priority based upon the earliest date upon which the decree or property settlement became final.

[51 FR 12845, Apr. 16, 1986, as amended at 53 FR 35807, Sept. 15, 1988; 62 FR 67724, Dec. 30, 1997]

§ 295.6 Disclosure of information.

(a) *Immunity from process.* The provision for the payment of benefits under

Railroad Retirement Board

§ 295.7

this part pursuant to a court decree or property settlement shall not be construed to be a waiver of the sovereign immunity of the Railroad Retirement Board as an agency of the U.S. Government. The Board may not be joined in a suit for divorce, dissolution, annulment or legal separation, or otherwise subjected to the jurisdiction of any state court. Subpoenas, notices of joinder, interrogatories, orders for production of documents, and like state process issued in connection with a suit for divorce, dissolution, annulment or legal separation will be treated as requests for disclosure of information under this section.

(b) *Request for information.* A response to request for information to be used in connection with a suit for divorce, dissolution, annulment or legal separation may be made by the Deputy General Counsel or his or her designee, by the Associate Executive Director for Retirement Claims, or by a contact representative of the Board's field service.

(c) *Information available.* In the absence of signed authorization from the employee, a spouse or former spouse who is a party to a suit for divorce, dissolution, annulment or legal separation, or his or her legal representative, may be furnished the amount of benefits the employee is currently receiving. If the employee is not currently entitled to benefits, the Board may furnish the amount of any estimated benefit to which the employee would be entitled if he or she were of retirement age at the time of the request, as reflected by the records of the Board, to the extent it is possible for the Board to compute such amount. The Board shall not be required to furnish the present value of future benefits, the amount of benefits payable at a future date, or any other computations based on statistics or procedures not maintained by the Board in the normal course of administration of the Act.

(d) *Certification.* A letter or statement prepared by a Board official in the regular course of duty from the official records of the Board, which refers to the authority of this section and bears his or her signature, shall be a sufficient response for purposes of discharging the responsibilities of the

Board under this section. A certification in accordance with this section may be considered a public document for purposes of admissibility as evidence of present or potential benefits under the Act for use in a divorce, dissolution, annulment or legal separation proceeding.

§ 295.7 Miscellaneous.

(a) *Disbursement cycle.* In honoring and complying with a court decree or property settlement, the Board shall not be required to disrupt its normal disbursement cycle, despite any special schedule of accrual or payment of amounts due the spouse or former spouse set forth in the decree or settlement. A decree or settlement received too late to be honored during the disbursement cycle in which it was received shall be honored with respect to the next payment due the employee.

(b) *Liability for payments.* Neither the Board nor any of its employees shall be liable with respect to any payment made to any individual from moneys due from or payable by the Board pursuant to a court decree or property settlement regular on its face, if such payment is made in accordance with this part.

(c) *Liability for disclosures.* No employee of the Board whose duties include responding to requirements contained in this part shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by such employee in connection with the performance of the employee's duties in making such response.

(d) *Applicable law.* For purposes of a proceeding under this part, the Board will apply the law of the jurisdiction in which the court decree or property settlement was issued unless it comes to the attention of the Board that the state of issuance has no contact with the plaintiff or defendant in the action; in which case, the Board may, in its sole discretion, apply the law of any jurisdiction with significant interest in the matter.

(e) *Erroneous payments.* If a spouse or former spouse receives a payment pursuant to this part from an employee's benefit, and the Board later determines